

(c) *Final Reports.* The written notice required by this paragraph will also be accompanied by a report on Form 5150.18 covering the discontinuance and marked "Final Report."

(Approved by the Office of Management and Budget under control number 1512-0336)

## Subpart E—Bonds and Consents of Surety

### § 20.71 Bond.

(a) Except as provided in paragraph (d) of this section, each permittee who intends to withdraw more than 5000 gallons of specially denatured spirits per annum shall file a bond, Form 5150.25, before issuance of the permit. The penal sum of the bond shall be as follows:

Maximum annual withdrawals	Bond penal sum
0 to 5,000 gallons .....	No bond required.
Over 5,000 but not over 500,000 gallons.	\$2,000 plus \$1,000 for each 5,000 gallons of withdrawals over 10,000 gallons.
Over 500,000 gallons .....	\$100,000.

(b) The following method may be used to compute your penal sum:

(1) If the total of your estimated annual withdrawals is divisible by 5,000, divide it by 5. The result is your penal sum in dollars.

(2) If the total of your estimated annual withdrawals is not divisible by 5,000, increase it to the next highest number which is divisible by 5,000 and divide that number by 5. The result is your penal sum in dollars.

(c) The following are some examples:

If your annual withdrawals are	Your penal sum is
25,000 gallons .....	\$5,000
84,500 gallons .....	17,000
335,000 gallons .....	67,000

(d) Any bond previously approved on Form 1475 or 1480 which fulfills the penal sum requirements of paragraph (b) of this section shall remain valid and will be regulated by the same provisions of this subpart as it refers to bonds on ATF F 5150.25. No bond is required if the permittee is a State, any

political subdivision of a State, or the District of Columbia.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by 50 FR 20099, May 14, 1985]

### § 20.72 Evaluation of bond penal sum.

(a) *Permittee's evaluation.* Each permittee shall, for the period from July 1 through the following June 30, make an annual evaluation of the permittee's previous and future needs for specially denatured spirits. Based on the results of this evaluation:

(1) The permittee shall file a new bond in increased penal sum, if the existing bond no longer meets the penal sum requirements of § 20.71, or

(2) The permittee may file a new bond in decreased penal sum, if the existing bond exceeds the penal sum requirements of § 20.71.

(b) *Authority of regional director (compliance).* The regional director (compliance) may, at any time, require a permittee to file a new bond in a larger penal sum, or require a satisfactory explanation why a new bond should not be filed.

### § 20.73 Corporate surety.

(a) Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary in the current revision of Treasury Department Circular No. 570.

(b) Treasury Department Circular No. 570 is published in the FEDERAL REGISTER annually as of the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20226.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

### § 20.74 Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, must be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to act on behalf of the surety. The regional director (compliance) who is authorized

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to approve the bond may require additional evidence of the authority of the agent or officer to execute the bond or consent.

### **§ 20.75 Execution of powers of attorney.**

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is not a manually signed original, it shall be accompanied by certification of its validity.

### **§ 20.76 Deposit of securities instead of corporate surety.**

Instead of corporate surety, the principal may pledge and deposit as surety for the bond, securities which are transferable and which are guaranteed as to both interest and principal by the United States, under the provisions of 31 CFR part 225.

### **§ 20.77 Consents of surety.**

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

### **§ 20.78 Strengthening bonds.**

(a) When the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. A strengthening bond will not be approved if it bears any notation which is intended or which may be considered:

(1) To be a release of any former bond, or

(2) As limiting the amount of any bond to less than its full penal sum.

(b) Strengthening bonds shall show the date of execution and the effective date, and shall be marked "Strengthening Bond."

### **§ 20.79 Superseding bonds.**

Superseding bonds are required when insolvency or removal of any surety occurs. Superseding bonds may also be required at the discretion of the regional director (compliance) when any

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other contingency affects the validity or impairs the sufficiency of the bond. If the principal intends to continue the transactions to which the bond relates after the surety, under § 20.80, has applied for relief of liability under the bond, the principal shall file a valid superseding bond to be effective on or before the date specified in the surety's application for relief of liability. Superseding bonds shall show the date of execution and the effective date, and shall be marked "Superseding Bond." If the principal does not file a superseding bond when required, the principal may not conduct any operation under the permit.

### **§ 20.80 Notice by surety of termination of bond.**

A surety on any bond required by this part may at any time, in writing, notify the principal and regional director (compliance) with whom the bond is filed, that the surety desires (after a specified date) to be relieved of liability under the bond. The specified date may not be less than 90 days after the date the notice is received by the regional director (compliance). The surety shall also file with the regional director (compliance) an acknowledgment or other proof of service of the notice of termination on the principal.

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### **§ 20.81 Termination of rights and liability under a bond.**

(a) If the notice of termination given by the surety is not withdrawn, in writing, the rights of the principal as supported by the bond terminate on the date named in the notice. The surety is relieved from liability under a bond as to any operations which are wholly subsequent to:

(1) The date named in a notice of termination (§ 20.80); or

(2) The effective date of a superseding bond (§ 20.79); or

(3) The date of approval of the discontinuance of operations by the principal.

(b) If the principal fails to file a valid superseding bond before the date on which the surety desires to be relieved